IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 2371 of 2005(O&M)
Date of decision February 23, 2007

Raj Kumar

.....Petitioner

Versus

Joginder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Ashish Aggarwal, Advocate
for the petitioner.

Sh. Parminder Singh, Advocate
for respondents No. 2.

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Viney Mittal, J (Oral)

This order shall dispose of three Civil Revisions Petitions being Civil Revision No. 2371, 2372, 2373 of 2005 as all three revision petitions have arisen out of an identical controversy.

For the sake of convenience the facts have been borrowed from Civil Revision No.2371 of 2005.

A suit for declaration was filed by the plaintiffs (respondents No.1 to 5) on June 16, 2000 challenging the decree dated December 15, 1990 suffered by Sarabjit Singh. A Will dated December 1, 1994 executed by Sarabjit Singh in favour of Surjit Singh defendant had also been challenged.

It appears from the record that defendants No.5 and 7, initially filed their written statements but thereafter absented themselves from the proceedings before the trial Court. Defendant No.6 never chose to appear before the trial Court.

The applicant-petitioner claims that he has already entered into an agreement of sale with regard to the said property with Sarbjit Singh-defendant No.1 and Surjit Singh-defendant No.7 and has already paid an amount of more than Rs.50,00,000/-. On that basis it was maintained by the applicant that since the defendant No.1 and defendant No.7 had got filed the present suit in collusion with the plaintiffs with a view to defeat the rights of the applicant, therefore applicant was required to be impleaded as party-defendant in the suit.

The learned trial Court has dismissed the application filed by the applicant vide Order dated February 9, 2005. It is in these circumstances that applicant-petitioner is before this Court in these Civil Revisions.

I have heard Sh. Ashish Aggarwal, learned counsel appearing for the petitioner and Sh. Parminder Singh, learned counsel for the respondent.

The facts noticed above are not in dispute.

It is apparent that Sarbjit Singh and Surjit Singh defendants No.1 and 7, respectively, had initially filed written statement but thereafter have chosen to remain absent. They were ordered to be proceeded against ex-parte by the trial Court.

In these circumstances when the applicant claims that he has developed interest in the said property on account of an agreement to sell between applicant and defendants No.1 and 7 and the applicant claims to have already paid a huge amount then, it would be in the interest of justice that the applicant-petitioner is ordered to be impleaded as defendant

in the suit and contest the claim made by the plaintiffs.

Consequently, the present petition is allowed. The order dated February 9, 2005 passed by the trial Court is set aside. The applicant-petitioner is ordered to be impleaded as party-defendant in the all the three suits filed by the plaintiffs. The newly added defendant would be at liberty to file the written statement.

The trial Court shall frame the relevant issues and shall proceed in the trial in accordance with law.

A copy of the order be given dasti on payment of usual charges.

(VINEY MITTAL)
JUDGE

February 23, 2007
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